



Tennessee Wastewater Systems, Inc.
Docket 15-00025
January 2019 Report Overview

Systems subject to Notice of Violations and other Corrective Orders:

Starr Crest II (NOV) – Work is complete pending final resolution of drip zone pressures. TDEC will inspect upon completion of the entire expansion.

Smoky Village (NOV) – Docket 16-00096 – Loan providing funds to expand the drip field has closed. The additional land needed has been purchased. Work is being scheduled.

Summit View – Docket 14-00136 – TDEC has reinstated the construction plans for the site.

Cedar Hill – Docket 16-00096 – Loan providing funds to build the sand filter has closed. Work has begun and is expected to be completed in the Spring.

Maple Green (NOV) – Docket 16-00096 – Loan providing funds to build the sand filter has closed. Work is being scheduled (will start after Cedar Hill is completed).

River Road* (NOV) – TWSI is awaiting a signed easement for the land occupied by the sewer system. This is the final requirement TDEC had for resolution of the NOV.

Hidden Springs Resort (NOV) – TDEC issued Commissioner's Order citing various alleged violations to the State Operating Permit. Plans to repair the site are currently pending with TDEC with the primary hold up being ownership of the land necessary to install additional drip. So far the HOA, who owns the land, has been unresponsive to repeated requests to discuss utilizing the area for additional drip fields. Additional plans are being put together to address the short term needs at the site and will be submitted to TDEC shortly.

* River Road is not included in the KPI Report because there is no discharge from the facility and is not monitored.

Jeff Ridsen

From: HAWKMS Agent <agent@hawkms.com>
Sent: Tuesday, January 1, 2019 7:50 AM
To: Charles Hyatt; Brian Carter
Cc: Jeff Ridsen; Bob Pickney; Matt Pickney
Subject: TRA KPI Compliance Report for 1/1/2019 7:50:05 AM

TPUC Flow KPI Report for 12/31/2018

Tracy Nichols	Permitted	Expected	Actual	% of Expected	AvgFlow	% of
Cedar Hill DCP	75000	30025	0	0.00	0.00	
Maple Green DCP	74000	50304	240	0.00	98.33	

Jeremy Stewart	Permitted	Expected	SP Gal	Actual	% of Expected	AvgFlow
Hidden Springs RSF	30750	19600	0	22441	1.14	2169
Starr Crest II BC	28000	23975	900	38724	1.62	1795
Summit View RSF	8000	5775	0	8318	1.44	449

Brandon Dotson	Permitted	Expected	Actual	% of Expected	AvgFlow	% of
Smoky Village RSF	5600	4725	2106	0.45	2309.17	

**STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION**

IN THE MATTER OF:)	DIVISION OF WATER RESOURCES
)	
TENNESSEE WASTEWATER SYSTEMS, INC.,)	
)	
RESPONDENT.)	CASE NUMBER WPC18-0028

COMMISSIONER'S ORDER AND ASSESSMENT

NOW COMES Shari Meghreblian, PhD, Commissioner of the Tennessee Department of Environment and Conservation, (hereinafter the "Department") and states:

PARTIES

I.

Shari Meghreblian, PhD, is the duly appointed Commissioner of the Department. The Commissioner is responsible for administering and enforcing the Water Quality Control Act (the "Act"). Tenn. Code Ann. §§ 69-3-101 to -148.

II.

Tennessee Wastewater Systems, Inc. (the "Respondent") is an active corporation properly registered to do business in the state of Tennessee. The Respondent operates a wastewater treatment facility at the Hidden Springs Resort in Sevier County, Tennessee (the "site"). Service of process may be made on the Respondent through its Registered Agent, Mr. Jeff Risen at 851 Aviation Parkway, Smyrna, Tennessee 37167.

JURISDICTION

III.

Whenever the Commissioner has reason to believe that a violation of the Act, has occurred, is occurring, or is about to occur, the Commissioner may issue a complaint to the violator and the Commissioner may order corrective action be taken. Tenn. Code Ann. § 69-3-109(a). Further, the Commissioner has authority to assess civil penalties against any violator of the Act, pursuant to section 69-3-115 of the Tennessee Code Annotated, and has authority to assess damages incurred by the state resulting from the violation, pursuant to section 69-3-116.

IV.

The Respondent is a "person" and, as herein described, has violated the Act. Tenn. Code Ann. § 69-3-103(26).

V.

Seaton Branch and the unnamed tributary to Seaton Branch constitute "waters" of the state. Tenn. Code Ann. § 69-3-103(44). Pursuant to section 69-3-105(a)(1) of the Tennessee Code Annotated, all waters of the state have been classified by the Tennessee Water Quality Control Board for the following uses: to support fish and aquatic life, recreation, irrigation, and livestock watering and wildlife, and may additionally be classified for use as industrial water supply, domestic water supply, and navigation. Tenn. Comp. R. & Regs. Chapter 0400-40-04.

VI.

Any person operating a sewerage system is required to obtain a permit. Tenn. Code. Ann. § 69-3-108(c).

FACTS

VII.

The Respondent operates numerous wastewater treatment systems throughout the State of Tennessee including at the Summit View Resort and the Starr Crest II Resorts in Sevier County, and the Jackson Bend Facility in Blount County. On September 16, 2014, the Division issued Director's Order WPC14-0092 to the Respondent for violations of State Operating Permit ("SOP") SOP-06035 and the Act at the Summit View Resort, including ponding and overflow of wastewater at the site. On September 17, 2015, the Division issued a Notice of Violation ("NOV") to the Respondent for violations of SOP-01033 at the Starr Crest II treatment facility including effluent overflowing from the pump and recirculation tanks, broken and exposed drip lines in the drip field, and treated wastewater entering waters of the state. On April 4, 2017, the Division issued a NOV to the Respondent for violations of SOP-01009 at the Jackson Bend Facility including pooled water within the drip field.

VIII.

The Respondent holds a valid SOP ("SOP-00068" or the "permit") for the operation of septic tanks, an effluent collection system, a recirculating sand filter ("RSF"), three AdvanTex recirculating packed-bed media filters, and a fenced drip irrigation system with the capacity to serve approximately 145 units at the site. The design capacity of the system is 0.03075 million gallons per day ("MGD"), or 30,750 gallons per day ("GPD"). The Division of Water Resources (the "Division") previously issued coverage under SOP-00068 to the Respondent on September 1, 2012. The Respondent submitted an application for renewal of permit coverage on May 1, 2017. The permit was reissued on January 4, 2018, and has an expiration date of August 31, 2022.

IX.

On or about July 25, 2017, George Garden, Chief Engineer with the Division, visited the site in response to a complaint from the President of the Homeowner's Association ("HOA") for Hidden Springs Resort and met with Mr. Bob Pickney, representing the Respondent. While onsite, Division personnel noted an existing sewage odor, evidence that the treatment system had experienced overflows and bypasses, and poorly installed above-ground drip lines. Division personnel did not observe any AdvanTex units installed at the site. Mr. Pickney acknowledged that the facility was overloaded and the original installation was unable to handle existing flows, especially during vacation periods, and stated that the ultimate solution was to relocate and expand the treatment capability and disposal fields. Mr. Pickney indicated that the Respondent had access to surplus Fixed Activated Sludge Treatment ("FAST") units that could be used as a short-term solution. Due to the immediate potential hazard to human health and the environment, Mr. Garden supported doing what they could to address the situation, including utilizing FAST units to forestall potential hazards. This conversation in response to a hazardous situation did not excuse the Respondent from the requirement to submit system modifications to the Division for written approval and in no way allowed for the Respondent to operate the treatment system permanently in non-compliance with the permit. According to Part II, Section A (4) of SOP-00068, "[t]he permittee shall at all times properly operate and maintain all facilities and systems (and related appurtenances) for collection and treatment which are installed or used by the permittee to achieve compliance with the terms and conditions of this permit." Moreover, the permit states in Part II, Section B (1) "[t]he permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility."

X.

On or before August 1, 2017, the Division received a complaint alleging that there were issues with the Respondent's wastewater treatment system at the site, including odors and sludge running onto the ground.

XI.

On August 1, 2017, Division personnel performed a complaint investigation at the site and met with Mr. Jeremy Stewart, a representative for the Respondent. During the investigation, Division personnel observed that the RSF was not operational, treatment operations had been modified to allow the use of two FAST units in place of AdvanTex units, and significant odor was coming from the RSF. Despite Mr. Garden supporting the Respondent implementing stop-gap measures on or about July 25, 2017, these changes to the treatment system had not been reviewed or approved by the Division and did not reflect the application materials submitted by the Respondent three months earlier on May 1, 2017.

Moreover, a subsequent records review indicated that the Respondent never installed AdvanTex as first required by the permit in 2006. Additionally, Division personnel observed that the fence was down in some places and effluent from the treatment system was flowing from the drip field into a ditch beside the access road. The flow continued through the lower portion of the development and into a tributary of Sexton Branch. As stated in Part I, Section A of the permit, "[i]nstances of surface saturation, ponding or pooling within the land application area as a result of system operation are not authorized by this permit. Instances of surface saturation, ponding or pooling shall be promptly investigated and noted on the Monthly Operations Report." The Respondent did not report any surface saturation, ponding, or pooling in its 3rd Quarter 2017

Monthly Operations Report ("MOR") for the months of July, August, and September. Moreover, according to Part I, Section A of SOP-00068, "[a]ll drip fields shall be fenced sufficiently to prevent or impede unauthorized entry. Fencing shall be a minimum of four feet in height. Gates shall be designed and constructed in a manner to prevent unauthorized entry."

XII.

On August 7, 2017, the Division issued a NOV to the Respondent for violations observed during the August 1, 2017, complaint investigation. The NOV detailed that by modifying the treatment system without written approval from the Division, the Respondent had violated Tenn. Comp. R. & Regs. Chapter 0400-40-02-.05. The Division requested the Respondent submit a written response to the Division describing corrective action within thirty (30) days of receipt of the NOV.

XIII.

On September 5, 2017, the Division received a reply from Mr. Charles Hyatt, President for the Respondent. In the letter, Mr. Hyatt stated that the FAST units had been utilized to replace the clogged sand filter and that a vapor barrier was covering the sand filter to minimize the odor, which was caused by raw influent flowing through the sand filter. Additionally, Mr. Hyatt claimed that the Respondent was unaware of any overland flows from the drip field and was investigating the issue. Mr. Hyatt also stated that the Division had been notified of the need for the Respondent to change the system and that the work had been coordinated with and approved by Mr. George Garden. While Mr. Garden had granted verbal approval during the July 2017 site visit due to an emergency situation, the Division never received any modifications, proposed system treatment capacities, or updated plans detailing changes to the treatment system and did not grant written approval for the changes to the system.

In the letter, Mr. Hyatt stated that the Respondent had been working with the Hidden Springs HOA and the owners of the majority of the available land in the resort to develop future plans to relocate the existing treatment plant and expand the treatment and disposal system. As part of these plans, Mr. Grant Dunn was preparing final soils maps to expand the existing drip irrigation fields. Mr. Hyatt hoped to have a plan ready for submittal to the Division within six months.

XIV.

On November 29, 2017, Division personnel performed an inspection at Summit View, a treatment facility in Sevier County also operated by the Respondent, and were accompanied by the following representatives for the Respondent: Mr. Bob Pickney, Mr. Fred Pickney, Mr. Marshall Fall, and Mr. Jeremy Stewart. After conducting the inspection at Summit View, Division personnel requested to visit the Hidden Springs treatment facility. The representatives for the Respondent agreed, and Mr. Bob Pickney brought Division personnel first to the proposed location of a new drip field. Division personnel then visited the current treatment facility and observed the following:

- The RSF was still not functional and was being used as an equalization basin. The RSF was covered with black plastic to reduce odor.
- The two FAST units onsite were still serving as the treatment component in lieu of the RSF. It was unclear to Division personnel where the flush from the FAST units was going or how the system was configured.
- The drip field was overloaded; the representatives for the Respondent agreed. Mr. Bob Pickney stated that daily flow at the site ranged from 5,000 to 30,000 GPD. Water was observed seeping out of the bank along the slope below the drip field, and a large portion of the trees in the drip field were dead, possibly from the amount of wastewater in the drip field. In addition, the entire area below the drip field behind the FAST units had ponded partially treated wastewater.
- While the RSF was not overflowing at the time of the visit, there was evidence of past overflow from the RSF.
- The fence surrounding the treatment system was down in many places and could not adequately restrict access to the site. The Respondent was required to fence the treatment area since the wastewater effluent was not tested for *Escherichia coli* ("E. coli").

According to SOP-00068, the Respondent was authorized to operate a “[RSF], three AdvanTex recirculating packed-bed media filters, and fenced drip irrigation system” at the site. At the time of the site visit, there was a strong sewage odor, the RSF was being used for storage, no AdvanTex units were present, and the drip field was inadequately fenced and unable to process the amount of wastewater being dosed by the system.

XV.

On December 22, 2017, the Division was copied on a correspondence from Mr. Kevin A. Dean, an attorney with Frantz, McConnell, & Seymour, LLP., to Mr. Hyatt on behalf of his client, Hidden Springs Resort. In the letter, Mr. Dean stated that the Respondent had misrepresented that it was doing business as Hidden Springs Resort as evidenced by the permit, which had been issued to “Tennessee Wastewater Systems, Inc. d/b/a Hidden Springs Resort”. Mr. Dean requested that the Respondent remove all references alleging that it was doing business as Hidden Springs Resort.

XVI.

On January 4, 2018, the Division issued an updated SOP-00068 to address Mr. Dean’s concerns and clarify the identity of the permit holder. The permit had been modified to remove the d/b/a notation from the title page and accurately represent the Respondent as the permit holder.

XVII.

On January 25, 2018, Division personnel returned to the site to examine a proposed area for an additional drip field. While onsite, Division personnel met with Mr. Grant Dunn who had evaluated soil pits and provided pit profile descriptions to the Division. After evaluating the proposed drip field location, Division personnel visited the treatment area and existing drip field.

The violations observed during the November 29, 2017, inspection remained. Division personnel observed gravel backfill at the bottom of the slope behind the FAST units where a pipe had been installed to allow drainage of the area directly to a roadside conveyance. Additionally, personnel observed multiple areas where wastewater from the drip field was running off the slope and noted a strong sewage odor and dark color inconsistent with secondary treated effluent.

That same day, Division personnel collected samples of the pooled wastewater effluent above the RSF for analysis. The Division of Laboratory Services with the Tennessee Department of Health analyzed the samples for various analytes. The biochemical oxygen demand ("BOD") concentration was 45.7 milligrams per liter ("mg/L") which was above the 45 mg/L limit for BOD established by Part I, Section A of the permit.

XVIII.

On April 2, 2018, the Respondent submitted the 1st Quarter 2018 MOR for the months of January, February, and March. Although Division personnel observed wastewater within the drip field during the January 25, 2018 site visit, the Respondent did not report any surface saturation, ponding, or pooling in the report. The report indicated a BOD concentration of 107 mg/L, which exceeds the 45 mg/L limit for BOD established by the permit by approximately 138%.

XIX.

On April 4, 2018, the Division received a complaint by email from the president of the Hidden Springs Resort HOA requesting an update on whether or not the Respondent had made any changes to the sewer system to address previous concerns. The complainant alleged that the Resort continued to experience problems with odor and, at times, sludge running from their

system. The complainant wrote again on April 17, 2018, stating that Hidden Springs Resort continued to experience sewer odor throughout the Resort.

XX.

On July 20, 2018, the Division was copied on an email from the president of the Hidden Springs HOA to Mr. Bob Pickney. In the email, the president stated that there was a leaking sewer line at the site and sewage was flowing down the gravel road from the drip field. In response to the alleged leaking sewer line, Division personnel emailed Mr. Pickney on July 23, 2018, asking for an update on the status of the plant and disposal area and informing him that Division personnel planned to perform an inspection of the facility on July 25, 2018. Division personnel requested that Mr. Pickney or another representative for the Respondent attend the inspection and bring with them the latest approved plans for the treatment and disposal system and plant performance data for the previous two months.

XXI.

On July 25, 2018, Division personnel conducted an inspection at the site as planned and met with Mr. Allen Overholt, an employee of the Hidden Springs Resort, and Mr. Jeremy Stewart, a representative for the Respondent. While onsite, Division personnel were told by Mr. Stewart that the system had sustained lightning damage sometime during the evening of July 19 or the morning of July 20, 2018, which had caused a failure of the effluent pumps but did not affect influent pumps. As a result, the plant filled up and partially treated wastewater overflowed the filter berm and effluent pump station. According to the Respondent, repairs to the system were conducted by July 23, 2018, and the system was returned to operational status.

During the inspection, Division personnel observed that FAST units were still in operation in violation of the permit. Personnel also observed evidence of previous bypassing including characteristic black biomat growth and evidence of a previous significant flow on the disposal slopes of black wastewater effluent. Additionally, personnel observed exposed and damaged disposal lines on the surface of the disposal field slope and effluent freely flowing down the slope and into conveyance ditches to the creek. The fence at the site was not sufficient to prevent entry to the drip field and there was a strong sewage odor at the site despite attempts by the Respondent to control the odor emanating from the FAST units. High levels of ammonia were evident in samples taken in standing water around the FAST units, in the effluent flowing down the disposal drip field slopes, and in the ditches conveying the effluent to the streams downgradient. High levels of ammonia indicated at least incomplete treatment.

XXII.

On August 14, 2018, the Division received from the Respondent an application for a permit modification of SOP-00068. The modification application was submitted to allow future modifications of the facility, including new drip fields and relocating the facility, but did not address the current modifications to the facility, including the use of FAST units. The Division issued an Incomplete Application Letter to the Respondent on August 21, 2018, stating that the application would be considered incomplete until the Respondent submitted a certified soils map of the proposed drip field and proof of ownership of the property intended for the drip field.

XXIII.

On September 4, 2018, Division personnel returned to the site to assess current conditions and observed untreated or partially treated effluent flowing on the ground and entering an unnamed tributary to Seaton Branch. The FAST units were still in operation in

violation of the SOP, effluent was ponding within the drip field and flowing via a wet weather conveyance to the tributary, and the fence at the site was still insufficient to prevent entry to the drip field. Division personnel took water samples of the discharge, which was gray, cloudy, and had an extremely strong sewage odor, at three locations: below the drip field, below the FAST units, and at the culvert leading offsite and toward the unnamed tributary. The samples were analyzed by the State's Division of Laboratory Services the following day, and results indicated elevated *E. coli* bacteria in all three samples. The Laboratory also indicated that the "true bacterial concentration [was] assumed to be greater than the reported value."

XXIV.

The Division has calculated that the Respondent has had an economic benefit by expenses avoided or delayed in the amount of FORTY-SIX THOUSAND AND ELEVEN DOLLARS (\$46,011.00) by failing to submit plans for modifications to the treatment system to the Division for an engineering report review and delaying the installation of three AdvanTex units as required by the permit since 2006.

XXV.

During the course of the investigation, the Division incurred DAMAGES in the amount of THREE THOUSAND, TWO HUNDRED FORTY-SIX DOLLARS AND SIXTY-SEVEN CENTS (\$3,246.67).

VIOLATIONS

XXVI.

By failing to comply with the terms and conditions of the SOP, as described herein, the Respondent has violated sections 69-3-108(a) and (b) and -114 of the Tennessee Code Annotated which state, in relevant part:

Tenn. Code Ann. § 69-3-108(a):

Every person who is or is planning to carry on any of the activities outlined in subsection (b), other than a person who discharges into a publicly owned treatment works or who is a domestic discharger into a privately owned treatment works, or who is regulated under a general permit as described in subsection (l), shall file an application for a permit with the commissioner or, when necessary, for modification of such person's existing permit.

Tenn. Code Ann. § 69-3-108(b):

It is unlawful for any person, other than a person who discharges into a publicly owned treatment works or a person who is a domestic discharger into a privately owned treatment works, to carry out any of the following activities, except in accordance with the conditions of a valid permit:

- (3) The increase in volume or strength of any wastes in excess of the permissive discharges specified under any existing permit;
- (5) The construction or use of any new outlet for the discharge of any wastes into the waters of the state; and
- (6) The discharge of sewage, industrial wastes or other wastes into waters, or a location from which it is likely that the discharged substance will move into waters.

Tenn. Code Ann. § 69-3-114(a):

It is unlawful for any person to discharge any substance into the waters of the state or to place or cause any substance to be placed in any location where such substances, either by themselves or in combination with others, cause any of the damages as defined in § 69-3-103, unless such discharge shall be due to an unavoidable accident or unless such action has been properly authorized. Any such action is declared to be a public nuisance.

Tenn. Code Ann. § 69-3-114 (b):

In addition, it is unlawful for any person to act in a manner or degree that is violative of any provision of this part or of any rule, regulation, or standard of water quality promulgated by the board or of any permits or orders issued pursuant to this part; or to fail or refuse to file an application for a permit as required in § 69-3-108; or to refuse to furnish, or to falsify any records, information, plans, specifications, or other data required by the board or the commissioner under this part.

XXVII.

By operating FAST systems and modifying the treatment system without written approval from the Division, the Respondent has violated Chapter 0400-40-02-.05(1) of the Tennessee Compilation of Rules and Regulations which states, in relevant part:

Construction work shall not be commenced on any new construction or major change of existing facilities ... until complete and final plans and specifications for such activities have been submitted to and approved in writing by an authorized representative of the Commissioner.

XXVIII.

By discharging untreated or partially treated wastewater to an unnamed tributary of Seaton Branch, resulting in elevated *E. coli* concentrations, the Respondent has caused a condition of pollution and has violated section 69-3-114 of the Tennessee Code Annotated. Tenn. Code Ann. § 69-3-114, which states in relevant part:

- (a) It is unlawful for any person to discharge any substance into the waters of the state or to place or cause any substance to be placed in any location where such substances, either by themselves or in combination with others, cause any of the damages as defined in § 69-3-103, unless such discharge shall be due to an unavoidable accident or unless such action has been properly authorized. Any such action is declared to be a public nuisance.**
- (b) In addition, it is unlawful for any person to act in a manner or degree that is violative of any provision of this part or of any rule, regulation, or standard of**

water quality promulgated by the board or of any permits or orders issued pursuant to this part...

ORDER AND ASSESSMENT

XXIX.

WHEREFORE, pursuant to the authority vested by sections 69-3-109, -115, and -116 of the Tennessee Code Annotated, I, Shari Meghreblian, PhD, hereby issue the following ORDER and ASSESSMENT to the Respondent:

1. Immediately after receipt of this Order and Assessment, the Respondent shall pump and haul all waste to a nearby sewage treatment plant ("STP"). The Respondent shall submit to the Division on or before the 31st day after receipt of this Order documentation of an agreement with a STP to accept the waste and receipts or other documentation showing daily volume pumped and hauled from the Respondent's facility. The Respondent shall continue to pump and haul all waste until the Respondent's new proposed treatment facility and drip field are fully operational and the Respondent has received written authorization from the Division. All documentation shall be submitted in duplicate to:

Chief Engineer, Division of Water Resources
George.Garden@tn.gov, or
William R. Snodgrass Tennessee Tower,
312 Rosa L. Parks Avenue, 11th Floor
Nashville, Tennessee 37243

AND

Manager of Compliance and Enforcement, Division of Water Resources
Jessica.Murphy@tn.gov, or
William R. Snodgrass Tennessee Tower,
312 Rosa L. Parks Avenue, 11th Floor
Nashville, Tennessee, 37243

2. On or before the 31st day after receipt of this Order and Assessment, the Respondent shall submit the certified soils map of the proposed drip field and proof of ownership or land use agreement for the drip field as required to process the permit modification application. These documents shall be submitted in duplicate to the addresses listed in Item 1.
3. The Respondent shall complete the construction of the new treatment facility and drip field within six months of receiving written approval of the submitted modification plans from the Division. Upon completion, the Respondent shall submit written and photographic documentation to the Division to the addresses in Item 1. The Respondent shall not begin using the new facility until receiving written authorization from the Division.
4. The Respondent shall maintain compliance with all the provisions of the Act and the SOP at the site for a period of two years from the date of receipt of this Order. At such time, this Order will be considered closed, provided the Respondent is in compliance with all the terms of the Order and has paid all outstanding penalties and damages.
5. The Respondent shall pay a CIVIL PENALTY of ONE HUNDRED SEVENTY-THREE THOUSAND, SIX HUNDRED SIXTY-ONE DOLLARS (\$173,661.00) to the Division, hereby ASSESSED to be paid as follows:
 - a. On or before the thirty-first (31st) day after receipt of this ORDER and ASSESSMENT, the Respondent shall pay a CIVIL PENALTY in the amount of FIFTY-TWO THOUSAND NINETY-EIGHT DOLLARS AND THIRTY CENTS (\$52,098.30).

- b. If, and only if, the Respondent fails to comply with item 1 above, the Respondent shall pay a CIVIL PENALTY in the amount of THIRTY THOUSAND, FIVE HUNDRED TWENTY DOLLARS AND SEVENTY CENTS (\$30,520.70), payable on or before the thirty-first (31st) day after default.
 - c. If, and only if, the Respondent fails to comply with item 2 above, the Respondent shall pay a CIVIL PENALTY in the amount of THIRTY THOUSAND, FIVE HUNDRED TWENTY-ONE DOLLARS (\$30,521.00), payable on or before the thirty-first (31st) day after default.
 - d. If, and only if, the Respondent fails to comply with item 3 above, the Respondent shall pay a CIVIL PENALTY in the amount of THIRTY THOUSAND, FIVE HUNDRED TWENTY-ONE DOLLARS (\$30,521.00), payable on or before the thirty-first (31st) day after default.
 - e. If, and only if, the Respondent fails to comply with item 4 above as evidenced by receipt of a NOV from the Division, the Respondent shall pay a CIVIL PENALTY in the amount of SIX THOUSAND DOLLARS (\$6,000.00) per NOV, not to exceed a total of THIRTY THOUSAND DOLLARS (\$30,000.00), payable on or before the thirty-first (31st) day after default.
6. On or before the thirty-first day after receipt of this ORDER and ASSESSMENT, the Respondent shall pay DAMAGES to the Division in the amount of THREE THOUSAND, TWO HUNDRED FORTY-SIX DOLLARS AND SIXTY-SEVEN CENTS (\$3,246.67).

The Director of the Division may, for good cause shown, extend the compliance dates contained within this ORDER and ASSESSMENT. In order to be eligible for this time extension, the Respondent shall submit a written request to be received in advance of the compliance date. The written request must include sufficient detail to justify such an extension and include at a minimum the anticipated length of the delay, the precise cause or causes of the delay, and all preventive measures taken to minimize the delay. Any such extension by the Division will be in writing. Should the Respondent fail to meet the requirement by the extended date, any associated Civil Penalty shall become due on the 31st day thereafter.

Further, the Respondent is advised that the foregoing ORDER and ASSESSMENT is in no way to be construed as a waiver, expressed or implied, of any provision of the law or regulations. However, compliance with the ORDER and ASSESSMENT will be one factor considered in any decision whether to take enforcement action against the Respondent in the future. Failure to comply with any of the requirements of this ORDER and ASSESSMENT could lead to further enforcement actions, which may include additional civil penalties, assessment of damages, and/or recovery of costs.

NOTICE OF RIGHTS

Tennessee Code Annotated §§ 69-3-115, 69-3-109, and 69-3-116 allow the Respondent to appeal this Order and Assessment. To do so, a written petition setting forth the grounds (reasons) for requesting a hearing must be RECEIVED by the Commissioner within THIRTY (30) DAYS of the date the Respondent received this Order and Assessment or this Order and Assessment will become final (not subject to review).

If an appeal is filed, an initial hearing of this matter will be conducted by an Administrative Law Judge ("ALJ") as a contested case hearing pursuant to the provisions of Tenn. Code Ann. § 69-3-110, Tenn. Code Ann. § 4-5-301 *et seq.* (the Uniform Administrative Procedures Act), and Tenn. Comp. R. & Regs. 1360-04-01 *et seq.* (the Department of State's Uniform Rules of Procedure for Hearing Contested Cases Before State Administrative Agencies). Such hearings are legal proceedings in the nature of a trial. Individual Respondents may represent themselves or be represented by an attorney licensed to practice law in Tennessee. Artificial Respondents (corporations, limited partnerships, limited liability companies, etc.) cannot engage in the practice of law and therefore may only pursue an appeal through an attorney licensed to practice law in Tennessee. Low income individuals may be eligible for representation at reduced or no cost through a local bar association or legal aid organization.

At the conclusion of any initial hearing the ALJ has the authority to affirm, modify, or deny the Order and Assessment. This includes the authority to modify (decrease or increase) the penalty within the statutory limits of Tenn. Code Ann. § 69-3-115 (up to \$10,000 per day per violation). Furthermore, the ALJ on behalf of the Board has the authority to assess additional damages incurred by the Department including, but not limited to, all docketing expenses associated with the setting of the matter for a hearing and the hourly fees incurred due to the presence of the ALJ and a court reporter.

Any petition for review (appeal) must be directed to the Commissioner of the Department of Environment and Conservation, c/o Jenny L. Howard, General Counsel, Department of Environment and Conservation, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 2nd Floor, Nashville, Tennessee 37243. Payments of the civil penalty and/or damages shall be made payable to the "Treasurer, State of Tennessee" and sent to the Division of Fiscal

Services - Consolidated Fees Section, Tennessee Department of Environment and Conservation, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 10th Floor, Nashville, Tennessee 37243. Technical questions and other correspondence involving compliance issues should be sent to Jessica Murphy, State of Tennessee, Division of Water Resources, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 11th Floor, Nashville, Tennessee 37243. Attorneys should contact the undersigned counsel of record. The case number, WPC18-0028, should be written on all correspondence regarding this matter.

Issued by the Commissioner of the Tennessee Department of Environment and Conservation, on this 17th day of December, 2018.



Shan Meghrebian, PhD, Commissioner
Tennessee Department of Environment and Conservation



Patrick N. Parker
BPR # 014981
Assistant General Counsel
Department of Environment & Conservation
312 Rosa L. Parks Avenue, 2nd Floor
Nashville, Tennessee 37243